

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, PENSION, WELFARE and  
TRAINING FUNDS of the INTERNATIONAL  
UNION of OPERATING ENGINEERS LOCAL  
14-14B, AFL-CIO by its Trustees EDWIN L.  
CHRISTIAN, CHRIS CONFREY, JOHN  
CRONIN, DON DENARDO, RENZO  
COLLAVINO, DANIEL NOESGES, DENISE M.  
RICHARDSON, JOHN F. O'HARE,

**MEMORANDUM AND ORDER**

Case No. 11-CV-5722 (FB) (RER)

Plaintiff,

-against-

MARBRO REALTY CO. INC.,

Defendant.

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*Appearances:*

*For the Plaintiff:*

JAMES MICHAEL STEINBERG, ESQ.

Brady McGuire & Steinberg, P.C.

303 South Broadway, Suite 234

Tarrytown, NY 10591

**BLOCK, Senior District Judge:**

On July 16 2012, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that the Court (1) issue an order directing defendant to cooperate with plaintiffs' audit request, and (2) award plaintiffs a default judgment against defendant in the amount of \$2,978.61, consisting of \$2,458.61 in attorneys' fees and \$520.00 in costs. *See* R&R at 11. The R&R stated that defendant's failure to object within fourteen days of receipt would preclude the District Court's review. *See id.* at 12. Plaintiff's attorney mailed a copy of the R&R to defendant on July 30, 2012, via first class

mail; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

**SO ORDERED.**

/s/ Judge Frederic Block

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FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, NY  
August 14, 2012